

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**DEREK A. HEYLIGER,**

**Plaintiff,**

**v.**

**9:04-CV-1441  
(FJS/DEP)**

**CITY OF BINGHAMTON,**

**Defendant.**

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**APPEARANCES**

**DEREK A. HEYLIGER**

**05-B-1000**

Lakeview Shock Incarceration Correctional Facility

P.O. Box T

Brocton, New York 14716

Plaintiff *pro se*

**SCULLIN, Chief Judge**

**ORDER**

The Clerk of the Court has sent the amended complaint that Plaintiff submitted for filing to the Court for its review.<sup>1</sup> *See* Dkt. No. 6.

In his amended complaint, Plaintiff alleges that he was falsely arrested and detained on two occasions and subjected to malicious prosecution in violation of his constitutional rights. *See id.* at 3-4. In each instance, Plaintiff asserts that he was subsequently released and that the charges were dismissed. *See id.* Plaintiff also adds three new Defendants to this action – The Police Department of the City of Binghamton, Detective Eccolston Harrington and Detective

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<sup>1</sup> Plaintiff submitted this amended complaint for filing in compliance with this Court's February 28, 2005 Order. *See* Dkt. No. 4.

Chuck Woody – and includes allegations of wrongdoing against each of these additional Defendants in his amended complaint.

Since Plaintiff's amended complaint appears to cure the defects that existed in his prior complaint, the Court concludes that he may file the same.

Accordingly, for the above-stated reasons, the Court hereby

**ORDERS** that the Clerk of the Court shall add The Police Department of the City of Binghamton, Detective Eccolston Harrington and Detective Chuck Woody as Defendants to the Docket of this action; and the Court further

**ORDERS** that the Clerk of the Court shall issue summonses and forward them, along with copies of the amended complaint, to the United States Marshal for service upon Defendants, together with a copy of this Order. The Clerk of the Court shall also forward a copy of the summons and amended complaint by mail to the Office of the Corporation Counsel for the City of Binghamton, New York, together with a copy of this Order; and the Court further

**ORDERS** that Defendants or their counsel shall file a formal response to Plaintiff's amended complaint in compliance with the Federal Rules of Civil Procedure subsequent to service of process on Defendants; and the Court further

**ORDERS** that the parties shall file all pleadings, motions and other documents relating to this action with the Clerk of the United States District Court, Northern District of New York, 7th Floor, James Hanley Federal Building, 100 South Clinton Street, Syracuse, New York 13261-7367. **Any paper that a party sends to the Court or to the Clerk of the Court shall be accompanied by a certificate setting forth the date on which the party mailed a true and correct copy of the same to all opposing parties or their counsel. The Court or the Clerk of**

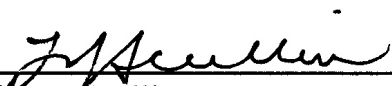
**the Court shall return, without processing, any letter or other document that it receives which does not include a proper certificate of service.** Plaintiff shall also comply with any Clerk's Office requests for any documents that are necessary to maintain this action. All parties must comply with Local Rule 7.1 of the Northern District of New York regarding motions, and the parties are to make any such motions returnable before the assigned Magistrate Judge on any business day with proper allowance for notice as the Rules require. The Court will decide all motions on submitted papers, without oral argument, unless the Court otherwise orders.

**Plaintiff is also required to promptly notify the Clerk's Office of any change in his address; his failure to do so will result in the dismissal of this action;** and the Court further

**ORDERS** that the Clerk of the Court serve a copy of this Order on Plaintiff.

**IT IS SO ORDERED.**

Dated: May 5, 2005  
Syracuse, New York

  
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Frederick J. Scullin, Jr.  
Chief United States District Court Judge